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ABSTRACT

This booklet discusses the 1989 United Nations Convention on the Rights of the Child, focusing on the Convention's effects on the rights of children in Australia. It summarizes the main articles of the convention and explains the international legal structures by which the rights of children are protected. The booklet then examines human rights and children's rights, the role of the United Nations in protecting these rights through minimum standards, and the role of the Australian government in protecting these rights through policy. It discusses opposition to the Convention in Australia, voiced primarily by parents who believed that the Convention would abrogate certain parental rights and responsibilities. The booklet then considers: (1) recent developments in Australia that reflect the principles of the Convention; (2) implications of the Convention on early childhood philosophy, policy, and practice; and (3) the prevention of child abuse in Australia. A resource list of 14 publications is included. A separately published official summary of the major issues covered by each article of the convention is attached. Contains 13 references. (MDM)

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AECA Resource Book Series

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Children's Rights

The United Nations Convention on the Rights of the Child

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The AECA Resource Book Series (formerly the Australian Early Childhood Resource Booklets) is published four times each year by the Resource Book Committee of the Australian Early Childhood Association Inc., Knox Street, Watson ACT 2602.

The series aims to provide practical support to workers in all early childhood settings. The books bring together the best information available on wide ranging topics and are an ideal resource for practitioners and students. Booklets produced in previous years have now become standard texts in many early childhood courses.

The book is an initiative of the Australian Early Childhood Association (AECA). It was written with the cooperation of the National Association for the Prevention of Child Abuse and Neglect (NAPCAN), the National Children and Youth Law Centre, and Defence for Children International.

The Human Rights and Equal Opportunity Commission is responsible for monitoring Australia's implementation of the Convention and can be contacted on (02) 229 7600.

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Children's Rights

The United Nations Convention on the Rights of the Child

anne greenwood

contents

Introduction	2
Resource list	15
References	16
A guide through the Convention	insert

Introduction

...Children have not been protected, provided for or respected as individuals...

Let's stop for a minute to think about children: children here in Australia and children in countries outside Australia. When children come into our care bearing evidence of something different from what we normally expect such as different cultural values, different standards of living... What do we think?

Do children have rights? What are their rights? In what ways have children been denied their rights? What can be done to ensure children are given the rights they deserve? Is it possible in a country as democratic as Australia that children might be exploited?

A variety of people around the world, including advocates for children, have been considering these very questions for some time. The results of their often controversial discussions indicate that in far too many situations children have not been protected, provided for or respected as individuals. Even here in Australia, many children experience abuse in all of its forms: unfair work requirements, life on the streets and exploitation.

What legal structures exist by which the rights of children can be protected?

On 20 November 1989, the International Convention for the Rights of the Child was adopted by the General Assembly of the United Nations (UN). The Convention was developed by countries represented at the UN and was ratified by the Australian Government in December 1990.

Every two years, the Australian Government has to make a report to the UN as to how, as a country, it has complied with the Convention. A ten member international committee of the UN monitors how countries are complying. This is not the only evidence to be produced, as non-government organisations in countries which have ratified the Convention can report directly to the UN.

In broaching a legal document such as the Convention, several issues need to be addressed to set the scene so that it can be better understood. These include:

- the rights of children/human rights;
- the nature of the Convention;
- the role of the UN in the Convention;
- the provisions of the Convention;
- the meaning of the Convention to Australia and children in Australia.

This book is written to provide information about these issues by way of introducing early childhood professionals to the Convention, and by referring to its implications for the field of early childhood. It also seeks to draw attention to what is being done in Australia for children.

The intention of the book is to heighten the awareness of professionals about the Convention and about their responsibilities as early childhood personnel to uphold children's rights.

Human rights and children's rights

It is generally agreed amongst professionals that no difference exists between human rights and children's rights. In discussion with co-workers and parents, this may well prove to be an issue for debate and each of us needs to be able to enter this type of debate well informed.

The unwritten rule suggests that children should have the same basic rights as adults, i.e. civil and political, economic, social and cultural.

Children are human beings and as such should be entitled to the same rights as adults. It is generally accepted that because of their youth they should be granted additional rights which recognise their need for care and protection.

There are ...millions of children who are abused physically, emotionally and sexually, not to mention those millions who are neglected.

A century ago children were looked upon as *possessions* of their parents to be 'seen and not heard'. Later, protective laws stressed the welfare of children. They were treated as *objects of concern* and adults made decisions according to their best interests often without finding out what the child wanted. Attitudes are changing, and the Convention treats children as *individual people* who should be involved in decisions which affect them and whose views should be seriously considered.

However, ambivalence exists in our society toward children's rights. Laws about child abuse protect children from physical abuse and reflect where the family has failed to provide proper standards of care. On the other hand, the common law and statute law in most States and Territories allows parents to punish children physically as long as that punishment is reasonable. In Australian law and Anglo/Australian culture the term '*reasonable punishment*' is open to wide interpretation (Castell-McGregor, 1992).

On the world scene, we can see that no one country protects the rights of all of its children. There are more than 10 million refugee children, children (and their families) who suffer continuing racial and religious discrimination and millions of children who are abused physically, emotionally and sexually, not to mention those millions who are neglected (Castell, 1988). To date, more than 150 countries worldwide have ratified the Convention—the largest number ever to adopt an international human rights convention.

Rights are of limited use unless children know of their rights and have a means of enforcing them. Some sections of the Convention place an obligation on governments to inform children of their rights and entitle them to have a representative speak for them in matters which affect them. Children do not have a right to vote and accordingly often receive a low priority on political agendas. Children, because they are in the process of acquiring full independence and intellectual maturity, are vulnerable to exploitation (Morrison, 1991).

The Convention on the Rights of the Child was not the first attempt to give children rights in international law. An important Declaration on the Rights of the Child was passed by the UN General Assembly in 1959 and children are entitled to the protection provided by the UN Covenants on Civil and Political Rights and Economic and Social Rights.

The UN Convention on the Rights of the Child goes further than these. It reinforces the universal human rights standards and addresses children's rights within an inter-disciplinary framework of civil, political, economic, social and cultural provisions (Muntarbhorn, 1993).

The Convention

The UN Convention on the Rights of the Child is made up of fifty-four (54) Articles which establish universal standards as basic benchmarks for measuring (Government) compliance. Forty (40) of these Articles are to do with substantive rights, whilst the rest deal with how these rights should be facilitated.

All rights under the Convention apply to all children without discrimination (Article 2)

It emphasises three main rights:

(i) non-discrimination (Article 2),

(ii) the best interest of the child (Article 3), and

(iii) the right to be heard (Article 12). Children have a right to be listened to and to have a say about what happens to them, e.g. in court.

Civil, political, economic, social and cultural rights are set out and there are special provisions to deal with children who are at risk of abuse and exploitation (Articles 19, 34) (Muntarbhorn, 1993).

The Convention provides a universal political commitment to the protection of children by defining the rights of children and the responsibilities which governments and parents have to provide for these rights.

It establishes new standards of care and protection of children in all countries and addresses the needs of children from all societies. When a country ratifies a Convention, it agrees to take on the responsibilities of meeting the standards set down in that Convention.

In the areas of health, welfare and education, the Convention outlines the ***minimum*** standards governments must attempt to meet in providing adequate services and supports for children and their families.

The rights set out in the Convention can be categorised as

- provision
- protection, and
- participation

or *The Three P's* (UNICEF/HR&EOC Briefing Kit, 1989).

PROVISION

The right to possess, receive or have access to

• the right to life	Article 6
• a name and nationality	Article 7
• health care	Article 24
• education	Article 28
• adequate rest and play	Article 31
• special care for disabled children	Article 23
• an adequate standard of living	Article 27
• care after abuse	Article 39
• respect for the cultures from which children come	Article 30

PROTECTION

The right to be shielded from harmful acts and practices such as

• separation from parents	Article 9
• sexual exploitation	Article 34
• physical abuse and neglect	Article 19

PARTICIPATION

The right to be heard in discussion affecting the child's life so that the child has

• freedom of expression	Article 13
• freedom of thought, religion	Article 14
• the right to be heard in court	Article 12

The role of the United Nations

The United Nations through its various working groups draws up international human rights instruments setting minimum standards. If adopted by the General Assembly any member state of the United Nations can adopt these minimum standards by ratifying the instrument. In some cases (e.g. the Covenant on Civil and Political Rights) there is an 'optional protocol' which allows individuals to take a complaint against their government to the UN Committee on Human Rights. There is no optional protocol for the Convention on the Rights of the Child but there are moves (supported by the Australian government) to add one to the Convention.

The United Nations also identifies particular years for countries to focus their attention on particular issues, e.g. 1993 was proclaimed *The International Year of Indigenous Peoples* and 1994 has been declared *The International Year of the Family.*

The UN can give international effect to human rights in two ways:

Declarations—known as '*soft*' law: they are statements of general principle accepted by governments but which carry no specific obligations; and

Conventions or Covenants—binding '*hard*' laws, which means that countries which have ratified a convention ***must*** comply with the standards or provisions set down in that convention (Burdekin, 1989).

How can Australia meet its international obligation under this Convention?

There are various ways in which Australia can meet its international obligation under the Convention on the Rights of the Child. It could include the Convention in the Australian Constitution or in a Commonwealth Bill of Rights so that it would have the full force of Australian law. Or relevant parts of the Convention might be included in different State and Territory laws dealing with child protection, juvenile justice, health, education etc. Another possibility is that the Commonwealth government could pass laws applicable throughout Australia in the areas covered by the Convention. At present most laws affecting children differ from state to state. The Human Rights and Equal Opportunities Commission can report any breaches of the Convention. Non-governmental agencies can report their concerns to the UN Committee on the Rights of the Child and this Committee can highlight any failures in compliance when considering Australia's first report on implementation.

Why, then, do we in Australia need a Convention on the Rights of the Child?

The UN Declaration on the Rights of the Child was proclaimed in 1957, and it is incorporated into Federal Law in Australia as part of the human rights responsibilities of the Human Rights and Equal Opportunities Commission (HREOC) (Burdekin, 1989).

The Convention means that ...children's needs will not be seen as a secondary consideration.

The idea of a special convention for children was raised during the International Year of the Child in 1979 and a working group was set up to prepare a draft. A number of the provisions in the Convention were taken from earlier Declarations and Covenants but, in its final form, the Convention broke new ground in providing independent rights for children.

The Convention means that children are seen as ***individuals*** by governments. They are seen to have human rights which are available as they mature and become autonomous. It means that children ***can have a say*** in what happens to them but this is done in conjunction with guidance from family members. It gives children an ***identity*** so that when decisions are made about their future, for instance in court proceedings, decisions will be made according to the 'child's best interest'. Children's needs will not be seen as a secondary consideration.

Opposition to the Convention

Some opposition arose when Australia signed the Convention. Parents and anti-conventionalists had a number of reservations, including:

- anxiety about children having civil rights like freedom of speech;
- anger that children and young people should have information rights at all which might be used to challenge parental authority;
- anxiety that the Government will take over and erode parental responsibilities (Castell-McGregor, 1992).

The Convention in its preamble expresses a conviction that the family is the fundamental group in society and should be supported and a number of Articles of the Convention emphasise the importance of the family in giving guidance and direction to children. The Convention does not take away the rights of parents—it strikes a careful balance between the rights of children and those of parents.

A disabled child has the right to special care (Article 23)

The UN international ten member Committee on the Rights of the Child will receive reports and will evaluate how the Convention is implemented. To measure this properly the committee will have to evaluate universally, nationally and locally (Muntarbhorn, 1993). This committee has the power to visit countries to consult with State/Territory governments organisations and individuals.

The Convention and Australia

The required reporting process which resulted from Australia's ratification of the Convention focuses attention on how children's rights are met in Australia.

The Convention also requires Australia to take active measures to have the Convention known widely—to be taken to adults and children (Burdekin, 1989).

Before the Convention was ratified in Australia, each State and Territory gave an undertaking to meet its provisions. States and Territories, however, were not required to have uniform laws. It is likely, nevertheless, that many of the provisions of State and Territory laws are similar and are in line with provisions set down in the Convention.

Implementation of the provisions is a different matter. Although there is no specific power set down in the Australian Constitution for the Federal Parliament to make laws on children's rights or human rights, it can, however, make laws about *external* affairs.

A series of High Court decisions over the past ten years makes it possible for the Federal Parliament to make and pass laws which were thought to be the preserve of the States and Territories, e.g., in the Franklin Dam Case of 1983, the Federal Government passed a law for the dam not to be built and this was based on the International Convention for the Protection of the World Cultural and Natural Heritage (Burdekin, 1989).

Implementation of the Convention will require changes to be made in laws in every State and Territory. The Federal Government, if it decides to, can make Federal laws in any matter covered by the Convention.

In Australia, the Human Rights and Equal Opportunities Commission (HREOC) is empowered by the Federal Government to inquire into children's rights issues but the responsibility for the implementation of the Convention lies with the Commonwealth, State and Territory Departments of Attorneys General. Their legislative role is to amend all Acts of Parliament which affect children's rights so that they comply with the Convention.

Implementation of the Convention will require changes to be made in laws in every State and Territory. The Federal Government, if it decides to, can make Federal laws in any matter covered by the Convention.

In consultation with State and Territory Departments the Commonwealth Department of Attorneys General is responsible for the preparation of the reports to the International Committee on the Rights of the Child.

It also needs to be stated that there are many standards in the Convention that require more than laws to have them implemented, e.g., active respect for the cultural rights of children from indigenous and ethnic backgrounds, prevention of abuse and improved family support service (Burdekin, 1989). This means that community and Government groups need to co-operate through working together to help influence societal attitudes.

Resources are also required for standards to be implemented. The Convention requires Government to provide adequate resources, e.g., rehabilitation programs for children who have suffered abuse, family skills programs, parenting education programs, etc.

A non-government body, the Children's Rights Coalition (established February 1991) set up a working party to promote the Convention and independently monitor Australia's compliance with it.

In the report of the Children's Rights Coalition, entitled *Where Rights are Wronged*, two major concerns are noted.

1. Ignorance of the Convention by those who ought to know about it.
2. Inadequate resourcing of children's services in the provision of support and preventative services to parents and children (Brewer & Swain, 1993).

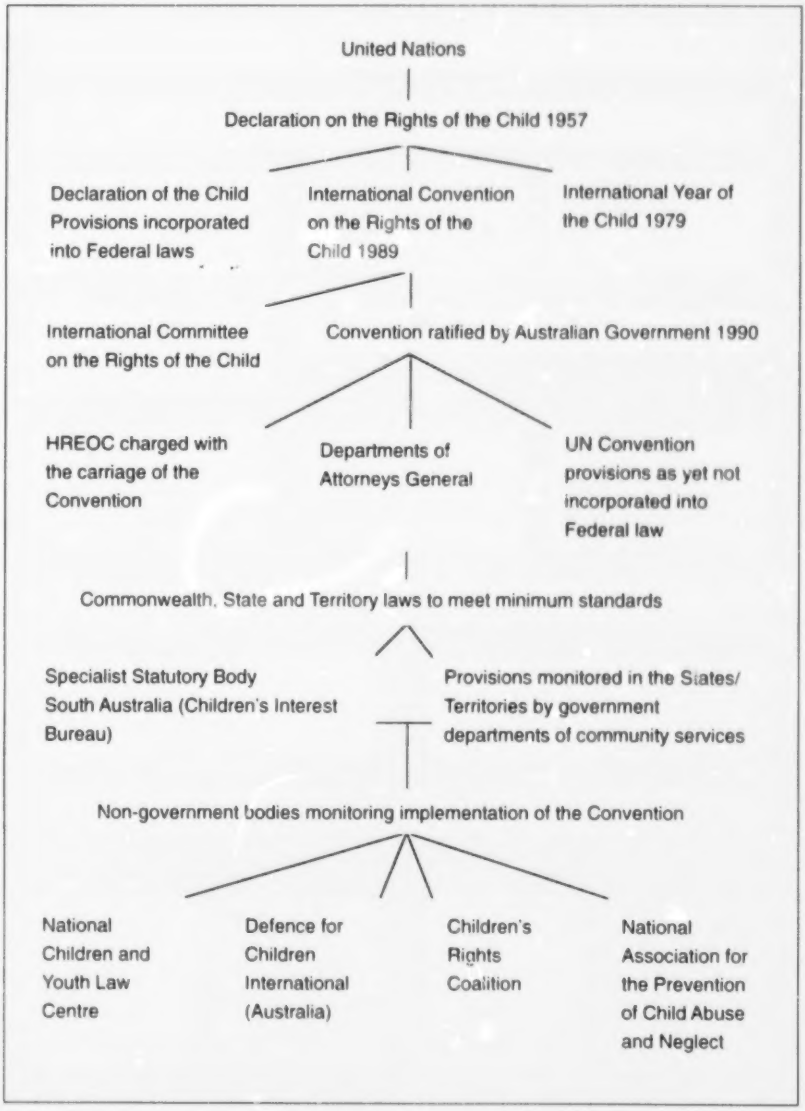
Moira Rayner, Convenor of the Children's Rights Coalition, writes that advocates for children's rights in Australia agree that

> "it is crucially important to address children's rights rationally to make the point that their interests are fundamentally and universally important and must not be dealt with on an ad hoc or purely pragmatic basis" (Brewer & Swain, 1993 : vii).

The key agencies monitoring the Convention are:

- Attorneys General Departments (Federal, State and Territory) which have the responsibility of amending all acts which affect children's rights.
- The Human Rights and Equal Opportunities Commission—empowered to inquire into violation of children's rights.

- The Departments of Community Services, which monitor the Convention in all States and Territories through children's services provision.
- The South Australian Children's Interest Bureau, an example of a specialist statutory body monitoring children's rights. South Australia is the only State to date to provide such a specialist body.
- The National Children and Youth Law Centre, which promotes children's rights throughout Australia.
- The special interest non-government bodies, which promote care and protection of children.


United Nations
Declaration on the Rights of the Child 1957
Declaration of the Child Provisions incorporated into Federal laws
International Convention on the Rights of the Child 1989
International Year of the Child 1979
International Committee on the Rights of the Child
Convention ratified by Australian Government 1990
HREOC charged with the carriage of the Convention
Departments of Attorneys General
UN Convention provisions as yet not incorporated into Federal law
Commonwealth, State and Territory laws to meet minimum standards
Specialist Statutory Body South Australia (Children's Interest Bureau)
Provisions monitored in the States/ Territories by government departments of community services
Non-government bodies monitoring implementation of the Convention
National Children and Youth Law Centre
Defence for Children International (Australia)
Children's Rights Coalition
National Association for the Prevention of Child Abuse and Neglect

Let us stop now to consider some new issues at this stage in the overview of the Convention. We might ponder how the Convention is being implemented in Australia generally, or in our own locality. We might also consider how we as early childhood professionals can contribute to the effective implementation of the Convention.

The latter part of this book will address the following issues:

- the implications of the Convention on children in Australia;
- developments which demonstrate how the Convention is taking place in Australia at the Government and community level;
- some ideas for early childhood workers to investigate for program development and also to heighten community awareness of the Convention;
- some implications of the Convention on early childhood philosophy, policy and practices;
- some thought-provoking matters for individual workers to consider.

The Convention and children in Australia

The Convention recognises the rights and responsibilities of parents and the importance of the family in raising children.

The UN Convention of the Rights of the Child provides governments with a framework for a more caring environment for children and to provide effective support for parents in need.

The Convention recognises the rights and responsibilities of parents and the importance of the family in raising children (Article 5). Indeed, the Convention provides greater recognition of parents' interests than most existing Australian legislation. It also recognises the needs of children from disadvantaged backgrounds or who are affected by a disability or who do not have the benefit of a family to protect and care for them.

In Australia, difficulties do arise in having States and Territories comply with standards of the Convention because inconsistencies exist between States and Territories on how each defines the term 'best interests of the child'. However, it is generally agreed that the State/Territory should intervene on behalf of the child only when it has been proven that the family has failed to adhere to the standards of care to which children have a right. (Brewer & Swain, 1993).

Developments in Australia which reflect the UN Convention on the Rights of the Child

Some provisions of the Convention which have been implemented include:

- the implementation of federally based access and equity policy in children's services which has as its priorities accommodation of children with disabilities, children from diverse cultural backgrounds and children at risk of being abused and neglected;

- the establishment of the National Association for the Prevention of Child Abuse and Neglect (NAPCAN), 1987. NAPCAN focuses its attention on developing community awareness about child protection issues;
- the application of mandatory reporting in some form in most States/Territories;
- the acceptance of video-taping of children's evidence in court in some States/Territories;
- the move by the Federal, State and Territory Governments to prohibit child pornography;
- the establishment of a National Protection Council with similar bodies being established in some States/Territories;
- the establishment of the Children's Interest Bureau in South Australia;
- the declaration of policy documents and statements about child protection by political parties;
- the declaration of pastoral statements on child protection by some churches;
- the establishment of the Human Rights Commission Inquiry into Homeless Children;
- the proposal by Federal Government to charge Australians who indulge in child exploitation outside Australia;
- the establishment of End Child Prostitution in Asian Tourism (ECPAT)—a non-government movement against sex tourism in Asian countries;
- the preparation of a new mini-treaty by Australia which will oblige signatory nations to extradite foreign nationals involved in child abuse and child sexual exploitation. This treaty will give weight to the Convention in this area of protection;
- the establishment of a Law-Asia Children's Rights Trust (Perth, WA) which will monitor the implementation of the Convention in this region.
- the Commonwealth legislation for protection of Aboriginal children.

Community groups and organisations, as well as individuals, have commented on the need for children's issues to be put on the National Agenda. There have been calls for:

- the uniformity of child protection laws, which would enable the Federal Government to co-ordinate (in conjunction with State and Territory Governments) the implementation of child protection legislation, on a nationwide basis;
- the development of a Charter of Children's Rights by all government institutions;
- the establishment of a Ministry of Children at State/Territory and National levels, with a commitment to the recognition of families as the primary institution which nurtures children;

- the establishment of an Office of Children's Ombudsman or Commissioners, with a clear commitment and responsibility to act to protect children's rights.
- the establishment of a complaints mechanism which can be resourced when contraventions are observed but may not constitute charges being laid.

Ways to heighten awareness about the Convention in early childhood settings

The following channels of communication can be used to share information with co-workers and parents:

- display the poster entitled *The UN Convention on the Rights of the Child*;
- discuss the Convention at workshops, meetings;
- invite a guest speaker to talk about laws in your State/Territory and how they relate to children;
- invite a facilitator from relevant State authorities to provoke discussion about the Convention;
- heighten the awareness of co-workers to the Convention by taking the topic to a professional group (your local Branch of AECA), to in-service training and to staff meetings; and
- take notes at meetings about the Conventions and add these to your parent newsletter.

Some implications of the Convention on early childhood philosophy, policy and practice

If we apply the Convention to our workplace, we need to acknowledge it in the philosophy and policies we adopt for children...

In all of its Articles, the Convention sets standards of care for all children. If we apply the Convention to our workplace, we need to acknowledge it in the philosophy and policies we adopt for children in order to achieve 'the best interests of the child'. In practice, we need to *demonstrate* respect for children as individuals and respond to all children according to their economic, social and cultural needs.

Early childhood professionals demonstrate respect for children in many ways.

- We balance our interaction with groups of children by offering opportunities for small group and individual time.
- We plan children's programs based on individual needs.
- We listen to children's views and provide information.
- We adapt our plans to address family structure and cultural differences.
- We listen to parents' views and provide information.
- We use positive and culturally appropriate physical contact.

A child has the right to engage in play (Article 31)

- We remember that children's individual capabilities differ and plan accordingly.
- We allow children to make real choices about activity, about food and about routines.
- We use guidance techniques rather than practices which fall short of proposed national standards. Unacceptable practices such as smacking, force feeding and humiliating children in fact contravene the UN Convention on the Rights of the Child.
- We adhere to our Code of Ethics. (See AECA Resource Booklets No.2 1991, No.3 1991 and the Australian Journal of Early Childhood 16 (1) 1991.)

Article 19 of the Convention protects children from all forms of abuse whether in private or government care. Our Code of Ethics provides an effective framework for provisions of both care and protection set down in the Convention.

How do we respond to child abuse cases in Children's Services

The question of how to deal with suspected child abuse cases is an ethical and legal one. Most States and Territories have mandatory reporting laws, but the application of these in each may vary. Early childhood professionals need to be familiar with the mandatory reporting laws in their own locality. The issue of reporting cases of abuse raises a number of questions which we as individuals need to consider.

- What do we do in cases of suspected child abuse? What is the State/Territory Government's law?
- What policy has been developed in the workplace to deal with suspected child abuse cases?
- What support network is available in our community to offer advice?
- What personal support system can be arranged to help staff faced with such ethical questions?

What can be done to address the need for education about child protection?

As early childhood professionals we should be prepared to respond to situations involving child abuse. An effective response requires education for both carers and children. Advocates of child protection would support the following propositions:

- Carers and children have a right to know about child abuse.
- Carers have the right to have a working knowledge of the various forms of child abuse and the indicators of each.

- Children have the right to information which enables them to respond to child abuse situations. They need protective behaviours training from an early age. (Refer to AECA Resource Booklet No. 3 June 1986 entitled *It Could Happen in Any Family.*)
- Workers have a responsibility to empower children to act in such situations.
- Workers have a right to adequate teaching methods in child protection.
- Management has a responsibility to provide such training.

Prevention of child abuse in Australia

Prevention of child abuse has been defined at three levels in Australia:

Primary prevention

The role the community takes in research, education and in advocating action in society about the issue of child protection, e.g. the National Association for Prevention of Child Abuse and Neglect, the National Clearing House (Institute of Criminology), the Protective Behaviours Programs that take place in States and Territories.

Secondary prevention

The identification of, and support for, families at risk of abusing their children, e.g. baby health centres, Family Skills programs, Parenting programs.

States undertake to take appropriate measures to protect children from abuse and exploitation (Article 19)

Tertiary prevention

The identification, assessment and treatment of children who have suffered abuse, e.g. mandatory reporting, investigations by Department of Community Services (Booth, 1992).

In summary, if we, as early childhood professionals implement the provisions of the Convention in accordance with our existing Code of Ethics, we will provide a standard of care which not only meets our legal obligations, but also meets a standard of international excellence for the children for whom we care.

Resource list

Poster: The UN Convention on the Rights of the Child. Sponsored by HREOC/Foster Parents Plan, UNICEF, AECA. Contact: HREOC

UNICEF/HREOC: Briefing Kit on the UN Convention on the Rights of the Child. Contact: HREOC

NAPCAN: Information Kits, videos for sale, etc. Contact: PO Box C302, Clarence Street, Sydney 2000 or ECPAT Australia, Box 2593W, Melbourne 3000

National Child Protection Council: Information Kit. NCPC Secretariat, GPO Box 9848, Canberra City 2601

Children's Interests Bureau (South Australia): 3rd Floor, City Centre Building, Hindmarsh Street, Adelaide 8000, ph (08) 226 6875

ITA Family Summit: Recommendations and related papers. Contact: Capricorn Publishing Pty Ltd. PO Box 140, Strawberry Hills 2012

National Party Policy Statement on Care and Protection of Children: John McEwan House, PO Box E265, Queen Victoria Terrace 2600

Liberal Party Policy Document on Family: Contact: Kerin Andrews MP, PO Box 124, Doncaster 3108

National Children and Youth Law Centre (Sydney): Ph: (02) 221 4361 173-175 Phillip St, Sydney NSW 2000

Pastoral Statement on Child Protection and Child Sexual Abuse: Australian Catholic Bishops Conference Meeting, December 1992

Defence for Children International (Australia): PO Box 383, Dickson ACT 2602

DCI Quarterly Publications "Monitor"

The Rights of the Child: A Guide to the UN Convention. BAPS Publications Unit, Storage and Distribution Centre. Heywood Stores, Manchester Road, Heywood , Lancashire, OLIO 2P2, England

The Convention on the Rights of the Child: Adopted by the General Assembly of the United Nations on 20 November, 1989 (includes text and unofficial summary of main provisions). Available from HREOC, GPO Box 5218, Sydney 2000

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A guide through the Convention

The following is an official summary of the major issues covered by each article of the Convention and is intended to serve as an easy reference guide to the text.
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■ **Article 1 Definition of a child**
All persons under 18, unless national law grants majority at an earlier age.

■ **Article 2 Non-discrimination**
All rights under the Convention are to apply to all children without discrimination. The State is obliged to protect children from any form of discrimination.

■ **Article 3 Best interests of the child**
The best interests of the child are to be a primary consideration in all measures concerning children. The State is to provide appropriate care if parents or others responsible fail to do so, and to ensure that institutions for the care and protection of children meet appropriate standards.

■ **Article 4 Implementation of rights recognised**
States are obliged to take measures to give effect to the rights recognised in the Convention.

■ **Article 5 Parental guidance and the child's evolving capacities**
States are to respect the rights of parents, or other persons responsible for the child to give the child direction and guidance, consistent with her or his evolving capacities, in the exercise of the child's rights. This Article applies to all the specific rights of the child recognised in the Convention.

■ **Article 6 Right to life**
Every child has the right to life, and States are to take measures to ensure the child's survival and development.

■ **Article 7 Right to name and nationality**
The child has a right to have a name from birth, the right to acquire a nationality, and the right as far as possible to know and be cared for by his or her parents.

■ **Article 8 Preservation of identity**
The child has the right to preserve her or his identity, including nationality, name and family relations, without unlawful interference, and States are to provide assistance and protection to children illegally deprived of their identity.

■ **Article 9 Parental care and separation from parents**
A child is not to be separated from his or her parents against their will unless this is determined to be necessary in the interests of the child by competent authorities in proceedings allowing all interested parties to make their views known. Children have the right to maintain contact with parents if separated from one or both, and where separation results from State action, the State must provide appropriate information, unless this would be contrary to the child's best interests.

■ **Article 10 Family reunification**
Children and their parents have the right to leave any country, and to enter their own, to maintain or re-establish family relations. States are to deal positively and humanely with applications to enter or leave for purposes of family reunification.

■ **Article 11 Illicit transfer and non-return**
States are to take measures to prevent children being taken or kept abroad illicitly by a parent or other parties.

■ **Article 12 Child's right to express opinions**
A child capable of forming his or her views has the right to express those views and have them taken into account in all matters affecting the child. The child has the right to be heard in administrative or judicial proceedings affecting him or her.

■ **Article 13 Freedom of expression and information**
The child has the right to freedom of expression and information, subject to any rest-rictions necessary to protect the rights of others, or public order, health or morals.

■ **Article 14 Freedom of thought, conscience and religion**
The child has the right to freedom of thought, conscience and religion, subject to the right of parents and guardians to provide direction and guidance.

■ **Article 15 Freedom of association**
The child has the right of freedom of association, subject to restrictions necessary to protect public safety, order, health or morals, or the rights of others.

■ **Article 16 Protection of privacy, honour and reputation**
The child has the right to protection from interference with his or her privacy, family, home or correspondence, and to protection from libel or slander.

■ **Article 17 Mass media and access to appropriate information**
States are to encourage the mass media to disseminate material of social and cultural benefit to children, and to have particular regard to children from indigenous and min-ority groups. They are to encourage the protection of children from harmful material.

■ **Article 18 Parental responsibilities**
States recognise the primary responsibility of parents or legal guardians for the upbringing of the child. They undertake to provide appropriate assistance in this task; to promote recognition of the common responsibilities of both parents; and to ensure that children of working parents benefit from child care.

■ **Article 19 Protection from abuse or neglect**
States undertake to take all appropriate measures to protect children from violence, injury or abuse, neglect, maltreatment or exploitation, and to undertake prevention and support programs.

■ **Article 20 Protection of children without families**
Children deprived of their family environment are entitled to special protection and assistance form the State. States undertake to make appropriate forms of alternative care available.

■ **Article 21 Adoption**
States undertake to ensure that the best interests of the child are the paramount consideration in adoption, and to ensure that appropriate standards apply to adoption, particularly inter-country adoption.

■ **Article 22 Refugee children**
States undertake to provide special protection and assistance to children who are refugees or who are seeking refugee status, including assistance with obtaining information necessary for family reunification.

■ **Article 23 Disabled children**
A disabled child has the right to special care. States undertake to encourage and ensure provision of assistance designed to ensure effective access to education, training, health care, rehabilitation, employment and recreation opportunities, and which is conducive to the fullest possible social integration and individual development for the child.

■ **Article 24 Health and health services**
The child has the right to the highest attainable standard of health, and the right of access to health care services. States undertake to take appropriate measures to this end, in particular to diminish infant and child mortality, to ensure the provision of adequate food and clean water, to ensure that all segments of society have access to appropriate information and education, and develop preventive health care.

■ **Article 25 Periodic review of placement in substitute care**
A child who has been place by the authorities for care, protection, or the protection of his or her physical or mental health, has the right to periodic review of all aspects of that placement.

■ **Article 26 Social security**
The child has the right to benefit from social security.

■ **Article 27 Standard of living**

The child has the right to an adequate standard of living. Parents have the primary responsibility to secure this, and the State undertakes to take appropriate measures to recover maintenance from persons having financial responsibility for the child. The State is obliged to take appropriate measures to assist parents and provide support in cases of need.

■ **Article 28 Access to education**

The child has the right to education. The State undertakes to take measures to make primary, secondary and higher education, and vocational guidance, accessible to all. School discipline is to be consistent with the rights of the child and reflect the child's human dignity.

■ **Article 29 Aims of education**

States agree that education should be directed to development of the child's personality and abilities, preparation of the child for responsible life, and development of respect for his or her parents, for human rights, for the natural environment, and for her or his own cultural and social identity and values and those of others. Individuals are to be free to establish educational institutions subject to standards laid down by the State.

■ **Article 30 Children of minorities or indigenous populations**

Children of minority communities and indigenous populations have the right to enjoy their own culture, practise their religion, and uses their own language, in community with others of their group.

■ **Article 31 Leisure, recreation and cultural activities**

The child has the right to rest and leisure, to engage in play and recreational activities and to participate in cultural and artistic life. The State undertakes to provide appropriate and equal opportunities for the realisation of these rights.

■ **Article 32 Protection from economic exploitation**

The child has the right to protection from economic exploitation and from engaging in any work that constitutes a threat to the child's education, health or development. The State undertakes to set minimum ages for employment, and to provide for and enforce regulation of conditions of employment.

■ **Article 33 Protection from illicit drugs**

States undertake to protect the child from illicit drug use and from involvement in illicit drug production or distribution.

■ **Article 34 Protection from sexual exploitation and abuse**

Sates undertake to protect the child from sexual exploitation and abuse, and to take all appropriate measures to protect children from unlawful sexual activity or exploitation in prostitution or pornography.

■ **Article 35 Prevention of abduction, sale or trafficking**

States are to take all appropriate measures to prevent abduction or sale of, or trafficking in, children for any purpose or in any form.

■ **Article 36 Protection from other forms of exploitation**

States are to protect the child from all other forms of exploitation prejudicial to the child's welfare.

■ **Article 37 Torture, capital punishment and deprivation of liberty**

No child is to be subjected to torture or cruel, inhumane or degrading treatment or punishment. Offences committed by persons under 18 are not to be punished by capital punishment or life imprisonment. Children are not to be detained arbitrarily or unlawfully. The arrest, detention or imprisonment of a child is to be a last resort only. Children deprived of liberty are to be treated with humanity and respect for their dignity, and taking into account the needs of persons of their age. Children are to be detained separately from adults unless this is contrary to the child's best interests. A child deprived of liberty has the right to maintain contact with his or her family. Every child deprived of liberty has the right to prompt access to legal and other appropriate assistance, and to test the legality of detention before a court or other authority.

■ **Article 38 Armed conflicts**

States undertake to respect existing rules of international humanitarian law relevant to the child. States are to take measures to ensure that no-one under the age of 15 takes part in hostilities. No-one under 15 is to be recruited into the armed forces, and if persons between 15 and 18 are recruited the oldest are to be recruited first. Civilian children affected by armed conflicts are to be given special protection and care.

■ **Article 39 Rehabilitative care**

States are to take all appropriate measures to promote recovery and social re-integration of child victims of neglect, exploitation or abuse, torture or cruel treatment, or armed conflicts.

■ **Article 40 Administration of justice and penal procedure**

No child is to be subjected to retrospective criminal liability. Every child alleged as, or accused of, having infringed the criminal law has at least the following rights: the right to be presumed innocent, to be informed of the charges (through his or her parent or guardian if appropriate), to have legal or other appropriate assistance, to have the matter determined promptly in a fair hearing by a competent authority, to have the free assistance of an interpreter if necessary, not to be compelled to testify against him or herself, to have the decision reviewed by a higher authority, and to have her or his privacy respected at all stages. States are to establish a minimum age for criminal liability. States are to deal with children without resorting to judicial proceedings where this is appropriate, subject to proper legal safeguards and respect for human rights. States are to make available a variety of dispositions as alternatives to institutional care to ensure that children are dealt with in a manner appropriate to their well-being and proportionated to the offence.

■ **Article 41 Respect for existing international standards**

Nothing in the Convention affects any higher standards contained in national law or in other applicable international law.

■ **Article 42 Public awareness of the Convention**

States undertake to make the principles and provisions of the Convention widely known to adults and children.

■ **Articles 43–54 Implementation and entry into force**

The Convention enters into force for ratifying States once 20 States have ratified it. There is to be an international Committee on the Rights of the Child set up to monitor the implementation of the Convention by States. The Committee will consider regular reports which States are to submit—initially two years after the entry into force of the Convention for the State concerned, then every five years. States are to make these reports available to the public. In order to foster effective implementation of the Convention and encourage international cooperation, the specialised agencies of the United Nations—such as the International Labour Organisation, the World Health Organisation and UNESCO—together with UNICEF and other United Nations organs are entitled to be represented at the meetings of the Committee. Together with other competent bodies—including non-government organisations—they can be asked by the Committee for expert advice on the implementation of the Convention. The Committee may make general recommendations and suggestions to States on matters arising from their reports, and shall then report these comments to the General Assembly with the response of the State concerned. The Committee may also propose special studies on specific issues.

Anne Greenwood

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